

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

ANTHONY LEWIS MCCRORY,

Plaintiff,

Case No. 07-12208

v.

Hon. John Corbett O'Meara

MICHIGAN DEPARTMENT OF
CORRECTIONS, *et al.*,

Defendants.

**ORDER GRANTING APPLICATION TO PROCEED
IN FORMA PAUPERIS AND DISMISSING COMPLAINT**

Plaintiff filed his *pro se* complaint on May 21, 2007, along with an application to proceed *in forma pauperis*. The court finds Plaintiff's application to proceed *in forma pauperis* to be facially sufficient and, therefore, grants Plaintiff's motion to proceed without prepayment of fees. See 28 U.S.C. § 1915(a); Gibson v. R.G. Smith Co., 915 F.2d 260, 262 (6th Cir. 1990).

Once a court grants a plaintiff permission to proceed *in forma pauperis*, it must review the complaint pursuant to 28 U.S.C. § 1915(e). The court "shall dismiss" the case if the court finds that it is "(i) frivolous or malicious; (ii) fails to state a claim on which relief may be granted; or (iii) seeks monetary relief against a defendant who is immune from such relief." 28 U.S.C. § 1915(e)(2)(B). A complaint is frivolous under § 1915 if it lacks an arguable basis in law or fact. Neitzke v. Williams, 490 U.S. 319, 325 (1989); Wilson v. Yaklich, 148 F.3d 596, 600 (6th Cir. 1998) (stating that complaints can be dismissed a frivolous "only when the claim is 'based on an indisputably meritless legal theory,' or where a complaint's 'factual contentions are clearly baseless'").

In his complaint, Plaintiff alleges that the "love notes" he sends to Michigan Department

of Corrections Officer Cindy L. Collins (whom he describes as “my wife until she says she is not my wife”) are “diverted” to other officers or are returned to him. Two envelopes Plaintiff attaches to his complaint show that mail he has sent to Officer Collins was “refused” or “return[ed] to sender, attempted not known.”

The court finds that Plaintiff’s complaint fails to state a claim and is frivolous, lacking any arguable basis in law. The court also fails to discern any federal constitutional issue or federal law that is implicated by Plaintiff’s allegations. Thus, it is clear that federal question jurisdiction is lacking. Moreover, Plaintiff’s complaint reveals no basis for diversity jurisdiction. Accordingly, the court will dismiss Plaintiff’s claim on the basis that it is frivolous, fails to state a claim, and because the court lacks subject matter jurisdiction.

IT IS HEREBY ORDERED that Plaintiff’s complaint is DISMISSED.

s/John Corbett O’Meara
United States District Judge

Dated: August 21, 2007

I hereby certify that a copy of the foregoing document was served upon Plaintiff on this date, August 21, 2007 by U.S. mail.

s/William Barkholz
Case Manager